

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ROBERT ROGALA,)	
)	
Plaintiff,)	Case No.:
)	
v.)	COMPLAINT FOR
)	VIOLATION OF CIVIL RIGHTS
P.O. R. ORTIZ Star No. 286,)	AND STATE SUPPLEMENTAL
P.O. G. CONOBY Star No. 331,)	CLAIM
P.O. J. TADROWSKI Star No. 296,)	
Individually, and THE CITY OF BERWYN)	
)	
Defendants.)	<u>JURY DEMAND</u>

COMPLAINT

JURISDICTION AND VENUE

1. This action arises under the United States Constitution and the Civil Rights Act of 1871 [42 U.S.C Section 1983]. This court has jurisdiction under and by virtue of 28 U.S.C. Sections 1343, 1331, and 1367.

2. Venue is found in this judicial court upon 28 U.S.C. Section 1391 as the acts complained of arose in this district.

PARTIES

3. At all times herein mentioned, Plaintiff ROBERT ROGALA ("Rogala" or "Plaintiff") was and now is a citizen of the United States, and resides within the jurisdiction of this Court.

4. At all times herein mentioned, Defendant Berwyn Police Officer R. ORTIZ Star No. 286, ("Ortiz") was employed by the Berwyn Police Department and was acting under color of state law and as the employee, agent, or representative for the Berwyn Police Department. This Defendant is being sued in his individual/personal capacity.

5. At all times herein mentioned, Defendant Berwyn Police Officer G. CONOBOY Star No. 331, (“Conoboy”) was employed by the Berwyn Police Department and was acting under color of state law and as the employee, agent, or representative for the Berwyn Police Department. This Defendant is being sued in his individual/personal capacity.

6. At all times herein mentioned, Defendant Berwyn Police Officer J. TADROWSKI Star No. 296, (“Tadrowski”) was employed by the Berwyn Police Department and was acting under color of state law and as the employee, agent, or representative for the Berwyn Police Department. This Defendant is being sued in his individual/personal capacity.

7. At all times herein mentioned, THE CITY OF BERWYN (“City”) was a political division of the State of Illinois, existing as such under the laws of the State of Illinois. At all relevant times, the City of Berwyn maintained, managed, and/or operated the City of Berwyn Police Department.

FACTUAL ALLEGATIONS

8. On or about January 16, 2007, at approximately 10:00 PM, Plaintiff was walking on Cermak Road at Harvey Avenue in Berwyn, IL.

9. At that place and date, the individual defendants arrived at Plaintiff’s location.

10. Plaintiff was subjected to unnecessary and unreasonable force by being tackled and shoved by the individual defendants.

11. The individual defendants then caused Plaintiff to be unlawfully arrested by handcuffing Plaintiff and forcing him into a police vehicle.

12. Plaintiff in no way consented to this conduct.

13. The individual defendants then caused Plaintiff to be falsely charged with disorderly conduct.

14. On or about January 24, 2008, Plaintiff's case was dismissed, terminating in his favor.

15. By reason of the above-described acts and omissions of Defendants, Plaintiff sustained injuries including, but not limited to, humiliation and indignities, medical expenses, and suffered great physical, mental, and emotional pain and suffering all to his damage in an amount to be ascertained.

16. The aforementioned acts of the Defendants were willful, wanton, malicious, oppressive and done with reckless indifference to and/or callous disregard for Plaintiff's rights and justify the awarding of exemplary and punitive damages in an amount to be ascertained according to proof at the time of trial.

17. By reason of the above-described acts and omissions of the Defendants, Plaintiff was required to retain an attorney to institute, prosecute, and render legal assistance to him in the within action so that he might vindicate the loss and impairment of his rights. By reason thereof, Plaintiff requests payment by Defendants, and each of them, of a reasonable sum for attorney's fees pursuant to 42 U.S.C. Section 1988, the Equal Access to Justice Act or any other provision set by law.

COUNT I

Plaintiff against Individual Defendants for Excessive Force

18. Plaintiff hereby incorporates and re-alleges paragraphs one (1) through seventeen (17) hearat as though fully alleged at this place.

19. By reason of Defendants' conduct, Plaintiff was deprived of rights, privileges and immunities secured to him by the Fourth Amendment to the Constitution of the United States and laws enacted thereunder.

20. The violence inflicted upon Plaintiff was unnecessary and unreasonable and was therefore in violation of Plaintiff's Fourth Amendment Rights. Specifically, all of the force described above was without legal cause and constituted unnecessary and unreasonable excessive force. Therefore the individual Defendants are liable to Plaintiff pursuant to 42 U.S.C. § 1983.

COUNT II

Plaintiff against Individual Defendants for Unlawful Detention and False Arrest

21. Plaintiffs hereby incorporate and re-allege Paragraphs one (1) through seventeen (17) hereat as though fully set forth at this place.

22. By reason of Defendants' conduct, Plaintiffs were deprived of rights, privileges, and immunities secured to them by the Fourth Amendment to the Constitution of the United States and laws enacted thereunder.

23. The detention and arrest of Plaintiff as alleged above was caused by Defendants and was done without probable cause and was unreasonable. Therefore, Defendants are liable for this detention and arrest under 42 U.S.C. § 1983.

COUNT III

Plaintiff against all Defendants for Malicious Prosecution

24. Plaintiff hereby incorporates and re-alleges paragraphs one (1) through seventeen (17) hereat as though fully alleged at this place.

25. The individual defendants caused a false charge of disorderly conduct to be commenced against Plaintiff.

26. The individual defendants, employed by the City of Berwyn, maliciously commenced and caused to be continued a proceeding against Plaintiff without probable cause.

As a result, Plaintiff was injured emotionally, financially, and otherwise from the loss of certain constitutionally protected liberty and related rights.

27. The individual defendants facilitated this malicious prosecution by the creation of a false criminal complaint, false evidence, and/or by giving false police reports.

28. The criminal proceedings against Plaintiff were terminated in his favor.

29. The City of Berwyn is liable to Plaintiff for the acts of the individual defendants, pursuant to the doctrine of *respondeat superior*.

30. Therefore, all Defendants are liable under the state supplemental claim of Malicious Prosecution.

WHEREFORE, Plaintiff, Robert Rogala, by and through his attorneys, Ed Fox & Associates, request judgment as follows against the Defendants, and each of them on all claims:

1. That Defendants be required to pay Plaintiff general damages, including emotional distress, in a sum to be ascertained;
2. That Defendants be required to pay Plaintiff special damages;
3. That Defendants, except the City of Berwyn, be required to pay Plaintiff attorney's fees pursuant to Section 1988 of Title 42 of the United States Code, the Equal Access to Justice Act or any other applicable provision;
4. That Defendants, except the City of Berwyn, be required to pay Plaintiff punitive and exemplary damages in a sum to be ascertained;
5. That Defendants be required to pay Plaintiff costs of the suit herein incurred; and
6. That Plaintiff has such other and further relief as this Court may deem just and proper.

DATED: April 4, 2007

/s/ Leslie C. McCoy
Leslie C. McCoy

ED FOX & ASSOCIATES
Attorneys for Plaintiff
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(312) 345-8877

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

DATED: April 4, 2007

s/ Leslie C. McCoy
Leslie C. McCoy

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